

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
NOVEMBER 16, 2005**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at 6:00 p.m. Board members present were Charles Lapp, Don Hines, Jeff Larsen, Gene Dziza, Tim Calaway, Kim Fleming, Kathy Robertson, and Cal Scott. Frank DeKort had an excused absence. Kirsten Holland, Traci Sears-Tull and BJ Grieve represented the Flathead County Planning & Zoning Office (FCPZ).

There were approximately 35 people in the audience.

**PUBLIC
REVIEW**

Hines reviewed the public hearing process for the public.

**PRELIMINARY
PLAT/WHISPER
RIDGE PUD**

A request by Brandyland, LLP for Preliminary Plat approval of Whisper Ridge Subdivision, a fifty-nine (59) lot (23 single family and 36 townhomes) residential Major Subdivision and Planned Unit Development on 14.049 acres. All lots in the subdivision are proposed to have public water and sewer systems. The property is located off of Highway 35 in Bigfork.

STAFF REPORT

Kirsten Holland reviewed Staff Report FPUD-05-09 for the Board.

APPLICANT

Erica Wirtala, of Sands Surveying, represented the applicant.

A representative, from Gavin-Hanks Architects, also presented some information.

Calaway asked Wirtala a few questions.

**AGENCY
COMMENTS**

None present. *Staff shared comments from MDOT.*

**PUBLIC
COMMENT**

One person commented on this proposal in regards to litigation on the subject property.

MOTION

Robertson made a motion seconded by Fleming to adopt Staff Report FPUD 05-09 as findings of fact and recommended denial to the County Commissioners.

**BOARD
DISCUSSION**

Calaway discussed topographical issues, setbacks, and access.

Robertson discussed problems with not having a school bus, the trees/views on the property, and engineering plans.

Lapp talked about setbacks and zoning.

Robertson commented on the layout of the plan and open space.

Lapp said the PUD plan has way less houses than it could potentially have with the current zoning.

Dziza discussed the requested variance and traffic concerns.

Cal expressed concern regarding the roadway and setbacks.

Larsen talked about topography, right-of-way, and the public water system.

Calaway talked about access and having a traffic light.

Robertson read a document for the record.

Fleming talked about ownership of the property.

ROLL CALL

On a roll call vote the motion passed 5-3 with Calaway, Larsen, and Lapp dissenting.

**BOARD
DISCUSSION**

Hines stated the Board will not continue to vote on the subdivision portion of the PUD application because the PUD overlay was recommended for denial.

**PRELIMINARY
PLAT/
BUFFALO
MOUNTAIN**

A request by John Chvilicek for Preliminary Plat approval of Buffalo Mountain, a one-hundred-fifty (150) lot single family residential subdivision on 490.58 acres. All lots in the subdivision are proposed to have neighborhood water and sewer systems. The property is located at 617 Smith Lake Road, and can further be described as Tracts 5 and 6 in Section 21, Tracts 1, 4, 7, 8, and 9 in Section 22, and Tract 6 in Section 28, all in Township 28 North, Range 22 West, P.M.M., Flathead County, Montana.

STAFF REPORT

Kirsten Holland reviewed Staff Report FPP-05-68 for the Board.

Board members asked questions of Staff.

APPLICANT

Eric Mulcahy, of Sands Surveying, represented the applicant.

Roger Noble, of Applied Water Consulting, addressed water concerns.

Larsen asked some questions; Noble elaborated.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT**

Don Murray, an attorney representing Lakeshore Hills and Lakeshore Heights residents, spoke in regards to water concerns. Asked the

Board to deny the subdivision pending tests, system plans for wastewater recycling, and having water rights in place.

A gentleman in the audience agreed with what Mr. Murray had said.

Russ Crowder, of American Dream Montana, talked about wells, paving, limit on conservation easement, agency comments on the public water system. He read a section of State law pertaining to governing body authority.

Ted Dykstra Jr., realtor, talked about the sale of lots and presented some statistics.

Mayre Flowers, of Citizens for a Better Flathead, read sections of State law regarding permanent open space and new DEQ laws, which she stated Flathead County is not complying with. She also discussed the wildlife corridor.

Valerie Kurtzalt, Smith Valley resident, appreciates the open space but is concerned with density, close proximity to protected water foul production area, runoff, groundwater, and well water availability.

Gwen Jonas, neighboring property owner, was concerned with wells and water.

Patrick Thomas, neighboring property owner, wanted to see this project tabled until further information could be provided.

Douglas Lockhart, neighboring property owner, said the plans look good but wants to see what happens with the water issue.

A woman (name unclear) spoke about subdivisions, water issues, and monitoring wells to see what the aquifer can sustain.

Todd Wirthlin, neighboring property owner, briefed the Board on his background and the history of his property. He discussed wells and his concern about traffic on Whalebone Drive.

**STAFF
REBUTTAL**

Staff pointed out the applicant encouraged the deed restriction.

**APPLICANT
REBUTTAL**

None.

MAIN MOTION

Fleming made a motion seconded by Calaway to adopt Staff Report FPP-05-68 as findings of fact with amended conditions and recommended approval to the County Commissioners.

**BOARD
DISCUSSION**

The Board discussed water issues, the new law regarding the DEQ, public concerns, and developers.

Mr. Noble addressed the Board's questions and concerns. He mentioned the developer will be using reclaimed water as well as water from Ashley Creek to reduce water use.

The Board asked Mr. Noble about putting in a SID, to run city water out there, and water irrigation.

**Motion,
Condition #12**

Fleming made a motion seconded by Robertson to amend Condition #12 to read: All areas designated as open space on the preliminary plat shall be placed in a perpetual conservation easement held in perpetuity or under permanent deed restriction held in perpetuity.

**BOARD
DISCUSSION**

The Board discussed perpetuity.

**ROLL CALL,
Condition #12**

On a roll call vote the motion passed 6-2 with Calaway and Larsen dissenting.

**Motion,
Condition #19**

Fleming made a motion seconded by Robertson to add Condition #19 to read: The subdivider will dedicate a 15-foot bicycle/pedestrian easement along the Smith Lake Road frontage.

**ROLL CALL,
Condition #19**

On a roll call vote the motion passed unanimously.

**Motion,
Condition #4**

Fleming made a motion seconded by Larsen to strike words, amending Condition #4 to read: The subdivider shall bring the gravel portion of Smith Lake Road between the subdivision entrance at Bison Circle and Phanco Lane to County standards, including construction of an adequate road base and a 22-foot paved travel surface. The subdivider shall also rebuild the intersection of Whalebone Drive and Smith Lake Road to a proper configuration. All improvements will be designed by a licensed Professional Engineer. [Recommendation per Flathead County Road Department, 10/21/05]

**BOARD
DISCUSSION**

The Board, Staff, and Mulcahy discussed the wording of the condition.

**ROLL CALL,
Condition # 4**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

Fleming discussed rules and DEQ, water issues, safeguards, tree preservation, and water recycling. She thinks the developer has presented a good plan.

Robertson mentioned the application was turned in September 26 and the new regulation went into effect October 1st.

**MAIN MOTION
ROLL CALL**

On a roll call vote the motion passed unanimously.

**PRELIMINARY
PLAT/SPUR
WING**

A request by Charles and Mickey Lapp for Preliminary Plat approval of Spur Wing Subdivision, a seventy five (75) lot (65 single family and 10 duplex townhomes) residential subdivision on 35.17 acres. All lots in the subdivision are proposed to have public water and sewer systems. The property is located off of Bower Road in Lakeside, and can further be described as Tract 1AD and Crystal View Estates Lots 1 and 2 in Section 13, township 26 North, Range 21 West, P.M.M., Flathead County, Montana.

Charles Lapp and Jeff Larsen stepped down and were asked to step out of the room for this project.

STAFF REPORT

Traci Sears-Tull reviewed Staff Report FPP-05-61 for the Board.

APPLICANT

Shelby Nash-Hunter represented the applicant.

Robertson asked about paving.

**AGENCY
COMMENTS**

None.

MAIN MOTION

Calaway made a motion seconded by Fleming to adopt Staff Report FPP-05-61 as findings of fact as amended and recommended approval to the County Commissioners.

**BOARD
DISCUSSION**

The Board discussed cash-in-lieu, right-of-way, the bike/pedestrian path, and road width.

**MOTION,
Condition #20**

Fleming made a motion seconded by Robertson to add Condition #20 to read: The bike/pedestrian path will be clearly marked to state standards.

**BOARD
DISCUSSION**

Staff mentioned adding a condition regarding parkland dedication.

**ROLL CALL,
Condition #20**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

Scott talked about retention and grade on the south slope.

Jeff Larsen, of Larsen Engineering, explained.

The Board discussed parkland dedication.

MOTION, Condition #21	Calaway made a motion seconded by Fleming to add Condition #21 to read: The applicant will dedicate to the Board of County Commissioners \$58,849.14 as cash-in-lieu of parkland in fulfillment of the parkland dedication requirement. [Section 3.19, FCSR]
BOARD DISCUSSION	None.
ROLL CALL, Condition #21	On a roll call vote the motion passed unanimously
MAIN MOTION ROLL CALL	On a roll call vote the motion passed unanimously.
PRELIMINARY PLAT/FOX RIDGE SUBDIVISION	A request by LBO Properties and Ron and Merna Terry for Preliminary Plat approval of Fox Ridge Subdivision, a twenty-eight (28) lot single family residential subdivision on 32.326 acres. All lots in the subdivision are proposed to have individual water and sewer systems. The property is located at 1505 Whalebone Drive, and can further be described as Tracts 1EB, 1AB, 1ABAB, 1EC, 1ECA, 1CBB and 1CBBA in Section 14, Township 28 North, Range 22 West, P.M.M., Flathead County, Montana.
STAFF REPORT	Traci Sears-Tull reviewed Staff Report FPP-05-67 for the Board.
APPLICANT	Eric Mulcahy, of Sands Surveying, represented the applicants. Roger Noble, of Applied Water Consulting, addressed water concerns. The Board asked questions of Mr. Noble.
AGENCY COMMENTS	None present.
PUBLIC COMMENT	Laurel Weir presented well data and cited other concerns. Don Murray, an attorney representing Lakeshore Hills and Lakeshore Heights residents, spoke in regards to water concerns. Todd Wirthlin, neighboring property owner, talked about negative impacts, lot sizes, slope, and Ashley Creek. Lou Savek, resident on Whalebone Drive, talked about wells, the aquifer, and the sewer system. AJ King, neighboring property owner, expressed concern about water and briefed the Board on the history of the area. Jeff Houston, neighboring property owner, expressed concern about

water rights, wells, road access, and speeding traffic.

Patrick Thomas, neighboring property owner, talked about the water issue and lack of parkland dedication for people to enjoy.

Mayre Flowers, of Citizens for a Better Flathead, talked about public expectations for Planning Board meetings and state law regarding water concerns. Asked the Board not to approve this development without water information.

**STAFF
REBUTTAL**

Staff addressed access.

**APPLICANT
REBUTTAL**

Mulcahy addressed secondary access.

MAIN MOTION

Calaway made a motion seconded by Larsen to adopt Staff Report FPP-05-67 as findings of fact as amended and recommended approval to the County Commissioners.

**BOARD
DISCUSSION**

Board discussed a public water system.

Board and Staff discussed adding this as a condition.

**MOTION,
Condition # 20**

Calaway made a motion seconded by Larsen to add Condition #20 to read: The subdivider must install a public water system.

**BOARD
DISCUSSION**

None.

**ROLL CALL,
Condition # 20**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

The Board discussed treatment systems.

**MOTION,
Condition # 21**

Fleming made a motion seconded by Robertson to require all lots in the subdivision to have Level 2 Treatment Systems.

**BOARD
DISCUSSION**

The Board talked about systems and groundwater.

Noble commented on the groundwater issue and septic systems.

**ROLL CALL,
Condition # 21**

The motion failed unanimously.

**BOARD
DISCUSSION**

Board and Staff discussed adding a condition regarding irrigation.

**MOTION,
Condition # 21**

Calaway made a motion seconded by Lapp to add Condition #21 to read: The subdivider must provide irrigation water to all lots from the existing water rights on proposed Lot 26 from Ashley Creek.

**BOARD
DISCUSSION**

The Board discussed irrigation, water rights, and State law.

**ROLL CALL,
Condition # 21**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

The Board discussed the cul-de-sac.

Staff read condition #11 addressing fire suppression and access.

**MAIN MOTION
ROLL CALL**

On a roll call vote the motion failed 4-4 with Fleming, Dziza, Hines and Robertson dissenting.

**BOARD
DISCUSSION**

The Board discussed reasons for denial and implementation of conditions. They said this was a poorly submitted application.

**NEW
BUSINESS/
PUBLIC
COMMENT**

Laurel Weir thanked the Board for their consideration.

Todd Wirthlin commented on the lots and emergency vehicle access.

Lou Savek thanked the Board and referenced his letter.

Patrick Thomas asked who addresses neighborhood parkland. Hines replied Flathead County Weed & Parks, and that they have requested cash-in-lieu because they don't have the resources to take care of more parks.

Mayre Flowers commented on cash-in-lieu and how the money goes to certain districts. She talked about the Natural Resource Committee, a sub-committee of the Long Range Planning Task Force, and how they're putting together a map for the growth policy regarding future park location needs.

Staff passed out a sheet to the Board regarding FEMA and a meeting they will be having.

Staff talked about the Long Range Planning Task Force and the Growth Policy.

OLD BUSINESS

None.

ADJOURNMENT The meeting was adjourned at approximately 9:00 p.m. on a motion by Robertson seconded by Larsen. The next meeting will be held at 6:00 p.m. on December 7, 2005

Don Hines, President

Mary Sevier, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 12/14/05